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United Nations Commission on International Trade Law
Fifty-first session
New York, 25 June–13 July 2018

Provisional agenda, annotations thereto and scheduling of meetings of the fifty-first session

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Please recycle

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II. Annotations

1. Opening of the session

1. The fifty-first session of the Commission will be held at the United Nations Headquarters in New York, from 25 June to 13 July 2018 (no meetings will be held on 4 July 2018, which is a United Nations official holiday in New York).[1] The session will be opened on Monday, 25 June 2018, at 10:30 a.m. (see below, section III, for more details about the scheduling of meetings). The Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations, Mr. Miguel de Serpa Soares, is expected to open the session.

2. As at 25 June 2018, the United Nations Commission on International Trade Law will be composed of the following member States: Argentina (2022), Armenia (2019), Australia (2022), Austria (2022), Belarus (2022), Brazil (2022), Bulgaria (2019), Burundi (2022), Cameroon (2019), Canada (2019), Chile (2022), China (2019), Colombia (2022), Côte d'Ivoire (2019), Czech Republic (2022), Denmark (2019), Ecuador (2019), El Salvador (2019), France (2019), Germany (2019), Greece (2019), Honduras (2019), Hungary (2019), India (2022), Indonesia (2019), Iran (Islamic Republic of) (2022), Israel (2022), Italy (2022), Japan (2019), Kenya (2022), Kuwait (2019), Lebanon (2022), Lesotho (2022), Liberia (2019), Libya (2022),

[1] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17* (A/72/17), para. 486.

Malaysia (2019), Mauritania (2019), Mauritius (2022), Mexico (2019), Namibia (2019), Nigeria (2022), Pakistan (2022), Panama (2019), Philippines (2022), Poland (2022), Republic of Korea (2019), Romania (2022), Russian Federation (2019), Sierra Leone (2019), Singapore (2019), Spain (2022), Sri Lanka (2022), Switzerland (2019), Thailand (2022), Turkey (2022), Uganda (2022), United Kingdom of Great Britain and Northern Ireland (2019), United States of America (2022), Venezuela (Bolivarian Republic of) (2022) and Zambia (2019).

3. Member States not members of the Commission, non-Member States having received a standing invitation to participate as observer in the sessions and the work of the General Assembly, and international governmental organizations may attend the session as observers and participate in the deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

No advance documentation is expected.

Proposed scheduling of this agenda item

Substantive deliberations: Monday, 25 June 2018, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

2. Election of officers

4. Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairperson, three Vice-Chairpersons and a Rapporteur.

No advance documentation is expected.

Proposed scheduling of this agenda item

Substantive deliberations: Monday, 25 June 2018, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

4. Finalization and adoption of instruments on international commercial settlement agreements resulting from mediation

5. At its forty-seventh session, in 2014, the Commission had before it a proposal for future work in relation to the question of enforceability of settlement agreements resulting from international commercial conciliation (A/CN.9/822). The Commission agreed that Working Group II (Dispute Settlement) should consider at its sixty-second session the issue of enforcement of international settlement agreements resulting from conciliation and should report to the Commission on the feasibility and possible form of work in that area.[2]

6. At its forty-eighth session, in 2015, the Commission mandated the Working Group to commence work on the topic of enforcement of settlement agreements to identify relevant issues and develop possible solutions, including the possible preparation of a convention, model provisions or guidance texts. The Commission agreed that the mandate of the Working Group should be broad to take into account the various approaches and concerns.[3] The Working Group commenced its consideration of that topic at its sixty-third session (A/CN.9/861).

7. At its forty-ninth session, in 2016, the Commission had before it the reports of the Working Group on the work of its sixty-third and sixty-fourth sessions (A/CN.9/861 and A/CN.9/867, respectively). After discussion, the Commission

[2] Ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), paras. 123 and 129.

[3] Ibid., *Seventieth Session, Supplement No. 17* (A/70/17), paras. 135–142.

commended the Working Group for its work on the preparation of an instrument dealing with enforcement of international commercial settlement agreements resulting from conciliation and confirmed that the Working Group should continue its work on the topic.[4]

8. At its fiftieth session, in 2017, the Commission had before it the reports of the Working Group on the work of its sixty-fifth and sixty-sixth sessions (A/CN.9/896 and A/CN.9/901, respectively). The Commission took note of the compromise reached by the Working Group at its sixty-sixth session, which addressed five key issues as a package (A/CN.9/901, para. 52) and expressed support for the Working Group to continue pursuing its work based on that compromise. The Commission expressed its satisfaction with the progress made by the Working Group and requested the Working Group to complete the work expeditiously.[5]

9. At its fifty-first session, the Commission will have before it the reports of the sixty-seventh and sixty-eighth sessions of the Working Group (A/CN.9/929 and A/CN.9/934, respectively). At those sessions, the Working Group finalized its work on the preparation of a draft convention on international settlement agreements resulting from mediation as well as a draft amendment to the Model Law on International Commercial Conciliation. The Commission is expected to consider the draft convention for finalization and the draft amended Model Law for adoption.

Documentation

A/CN.9/929	Report of Working Group II (Dispute Settlement) on the work of its sixty-seventh session (Vienna, 2–6 October 2017)
A/CN.9/934	Report of Working Group II (Dispute Settlement) on the work of its sixty-eighth session (New York, 5–9 February 2018)
A/CN.9/942	Draft convention on enforcement of international commercial settlement agreements resulting from meditation
A/CN.9/943	Draft revised UNCITRAL Model Law on International Commercial Conciliation
A/CN.9/...	Any comments by States that the Secretariat may receive on a draft convention on enforcement of international commercial settlement agreements resulting from meditation

Proposed scheduling of this agenda item

Substantive deliberations: Monday, 25 June 2018

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

5. Consideration of issues in the area of micro-, small- and medium-sized enterprises

10. At its forty-sixth session, in 2013, the Commission requested that a working group should commence work aimed at reducing the legal obstacles encountered by micro-, small- and medium-sized enterprises (MSMEs) throughout their life cycle, and, in particular, in developing economies.[6] At that session, the Commission also agreed that such work should start with a focus on the legal questions surrounding the simplification of incorporation,[7] and that work on this topic should be allocated to Working Group I.[8] That mandate was reaffirmed by the Commission at its forty-seventh to fiftieth sessions, in 2014 to 2017, respectively.[9]

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[4] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 162–165.
[5] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), paras. 236–239.
[6] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), para. 321.
[7] Ibid.
[8] Ibid., para. 322.
[9] Ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 134; ibid., *Seventieth Session, Supplement No. 17* (A/70/17), paras. 225 and 340; ibid., *Seventy-first Session, Supplement No. 17*

11. Since its twenty-third session (Vienna, 17–21 November 2014), the Working Group has proceeded to consider the legal issues surrounding the simplification of incorporation as well as good practices in business registration, both of which aimed at reducing the legal obstacles encountered by MSMEs throughout their life cycle. At its forty-ninth session, in 2016, the Commission noted the decision of the Working Group to proceed with the preparation of a legislative guide in respect of each of those two topics.[10]

(a) Finalization and adoption of a legislative guide on key principles of a business registry

12. At its fiftieth session, in 2017, the Commission was informed of the progress in the preparation of a draft legislative guide on key principles of a business registry for possible adoption at the fifty-first session of the Commission.[11]

13. At its twenty-ninth session (Vienna, 16–20 October 2017), the Working Group continued its work on a draft legislative guide on key principles of a business registry (A/CN.9/928). At its thirtieth session (New York, 12–16 March 2018), the Working Group finalized that work and decided that a text of the draft legislative guide as revised by the Secretariat to reflect the deliberations of the Working Group at that session should be transmitted to the Commission for consideration at its fifty-first session (A/CN.9/933, para. 21). At its fifty-first session, the Commission will thus have before it a draft legislative guide on key principles of a business registry for finalization and adoption.

(b) Finalization and adoption of a document entitled "Reducing the legal obstacles faced by micro-, small- and medium-sized enterprises (MSMEs)"

14. At its thirtieth session, the Working Group also reviewed a document entitled "Reducing the legal obstacles faced by micro, small and medium-sized enterprises (MSMEs)" intended to provide the overall context for work prepared by UNCITRAL in respect of MSMEs. The Working Group agreed that a text of that document as revised by the Secretariat to reflect the deliberations of the Working Group at that session should also be transmitted to the Commission for consideration at its fifty-first session (A/CN.9/933, para. 21). At its fifty-first session, the Commission will thus have before it a document entitled "Reducing the legal obstacles faced by MSMEs" for finalization and adoption.

(c) Progress report of Working Group I

15. At its fiftieth session, in 2017, the Commission was informed that the Working Group had continued its deliberations regarding the creation of a simplified business entity by considering a draft legislative guide on an UNCITRAL limited liability organization (UNLLO).[12] At its twenty-ninth and thirtieth sessions, the Working Group did not continue that work in the light of its consideration of a draft legislative guide on key principles of a business registry. The Working Group expects to resume its deliberations on a draft legislative guide on an UNLLO at its thirty-first session (A/CN.9/933, para. 21). The Commission will hear an oral report by the Secretariat on this sub-item.

Documentation

A/CN.9/928	Report of Working Group I (MSMEs) on the work of its twenty-ninth session (Vienna, 16–20 October 2017)
A/CN.9/933	Report of Working Group I (MSMEs) on the work of its thirtieth session (New York, 12–16 March 2018)

(A/71/17), para. 347, and ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 235.

[10] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 220–221.

[11] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 232.

[12] Ibid., paras. 231 and 232.

A/CN.9/940	Draft legislative guide on key principles of a business registry
A/CN.9/941	Reducing the legal obstacles faced by micro-, small- and medium-sized enterprises (MSMEs)

Proposed scheduling of this agenda item

Substantive deliberations: Tuesday–Wednesday, 26–27 June 2018

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

6. Commemoration of the sixtieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (the "New York Convention")

16. The Commission may wish to note that 2018 marks the sixtieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958[13] (the "New York Convention"). In order to inform the Commission on developments on the New York Convention, and to encourage an exchange of views on the promotion and application of the Convention, as well as on coordination and cooperation efforts, the Commission will hear a summary of achievements in the field and views of experts at the occasion of a commemoration event. The Commission may wish to note that the Secretariat also seeks to make full use of the commemoration event associated with that anniversary to encourage further treaty actions in respect of the New York Convention.

No advance documentation is expected

Proposed scheduling of this agenda item

The New York Convention event: Thursday, 28 June 2018, morning

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

7. Investor-State dispute settlement reform: progress report of Working Group III

17. At its fiftieth session, in 2017, the Commission entrusted Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement (ISDS), and in particular: (a) to identify and consider concerns regarding ISDS; (b) to consider whether reform was desirable in light of any identified concerns; and (c) if the Working Group were to conclude that reform was desirable, to develop any relevant solutions to be recommended to the Commission.[14]

18. At its thirty-fourth session (Vienna, 27 November–1 December 2017), the Working Group based its deliberations on a note by the Secretariat (A/CN.9/WG.III/WP.142), and proceeded to consider concerns regarding ISDS with the objective of identifying those that might justify reform. In particular, the Working Group discussed duration and cost, allocation of costs, security for costs, third party funding, early dismissal mechanisms and counterclaims in ISDS. The Working Group exchanged views on these topics in some detail, and agreed that it would analyse possible solutions to the concerns raised, together with other related topics yet to be considered, in a holistic manner. It also exchanged views on concerns regarding outcomes in ISDS, and in particular observations of a lack of consistency and coherence in those outcomes. It agreed that these issues warranted further in-depth consideration at its thirty-fifth session, to be held in New York, from 23–27 April 2018, together with any other issues that the Working Group might consider relevant (such as those relating to the appointment of arbitrators and adjudicators and ethical requirements and other matters set out in A/CN.9/WG.III/WP.142). Reflecting that its mandate provided that any solutions

[13] United Nations, *Treaty Series*, vol. 330, No. 4739.

[14] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17* (A/72/17), para. 264.

should be designed taking into account the ongoing work of relevant international organizations, the Working Group also had before it submissions from intergovernmental organizations (A/CN.9/WG.III/WP.143) at its thirty-fourth session and submissions from the European Union (A/CN.9/WG.III/WP.145) at its thirty-fifth session.

Documentation

A/CN.9/930	Report of Working Group III (Investor-State Dispute Settlement Reform) on the work of its thirty-fourth session (Vienna, 27 November–1 December 2017), Part I
A/CN.9/930/Add.1	Report of Working Group III (Investor-State Dispute Settlement Reform) on the work of its thirty-fourth session (Vienna, 27 November–1 December 2017), Part II
A/CN.9/935	Report of Working Group III (Investor-State Dispute Settlement Reform) on the work of its thirty-fifth session (New York, 23–27 April 2018)

Proposed scheduling of this agenda item

Substantive deliberations: Thursday, 28 June 2018, afternoon

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

8. Electronic commerce: progress report of Working Group IV

19. The Commission may wish to recall that, at its forty-ninth session, in 2016, it agreed that the topics of identity management (IdM) and trust services as well as of cloud computing should be retained on the work agenda of the Working Group. In that context, the Secretariat, within its existing resources, and the Working Group were asked to continue to update and conduct preparatory work on the two topics including their feasibility in parallel and in a flexible manner and report back to the Commission so that it could make an informed decision at a future session, including the priority to be given to each topic. In that context, it was mentioned that priority should be based on practical needs rather than on how interesting the topic was or the feasibility of work.[15]

20. The Commission may also wish to recall that, at its fiftieth session, in 2017, having considered the reports of the Working Group on the work of its fifty-fourth and fifty-fifth sessions, it recognized that, until the next session of the Commission in 2018, both the Secretariat and the Working Group would be able to handle projects on cloud computing, IdM and trust services in parallel. The Commission therefore reaffirmed the mandate given to the Working Group at its forty-ninth session, in 2016. It agreed to revisit that mandate at its fifty-first session, in 2018, in particular if the need arose to prioritize between the topics or to give a more specific mandate to the Working Group as regards its work in the area of IdM and trust services. The Secretariat was requested to consider convening expert group meetings as it deemed necessary to expedite the work in both areas and ensure the productive use of conference resources by the Working Group. States and international organizations were invited to share with the Working Group and the Secretariat their expertise in the relevant areas of work.[16]

21. The Secretariat convened an expert group meeting on contractual aspects of cloud computing in Vienna on 20 and 21 November 2017. The Secretariat also convened an expert group meeting on legal aspects of IdM and trust services in Vienna on 23 and 24 November 2017.

[15] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 235 and 353.

[16] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 127.

22. The Working Group considered both topics at its fifty-sixth session (New York, 16–20 April 2018).

Documentation

A/CN.9/936 Report of Working Group IV (Electronic Commerce) on the work of its fifty-sixth session (New York, 16–20 April 2018)

Proposed scheduling of this agenda item

Substantive deliberations: Thursday, 28 June 2018, afternoon

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

9. Security interests: progress report of Working Group VI

23. At its fiftieth session, the Commission decided that a practice guide to the UNCITRAL Model Law on Secured Transactions[17] should be prepared and referred that task to Working Group VI (Security Interests). It was agreed that issues addressed in document A/CN.9/926 and the relevant sections of document A/CN.9/913 should form the basis of that work.[18] It was widely felt that, to be able to use a law implementing the Model Law to their benefit, parties to transactions, judges, arbitrators, regulators, insolvency administrators and academics would need some guidance with respect to contractual, transactional and regulatory issues as well as issues relating to the financing of micro-businesses.[19] The Commission agreed that broad discretion should be left to the Working Group in determining the scope, structure and content of the practice guide.[20]

24. Accordingly, at its thirty-second and thirty-third sessions, the Working Group undertook work on the preparation of a draft practice guide. At its thirty-second session (Vienna, 11–15 December 2017), the Working Group had a preliminary discussion on the intended audience, scope, structure and style as well as on the overall contents of the practice guide. Based on that discussion, the first draft of the practice guide was prepared, which was considered by the Working Group at its thirty-third session (New York, 30 April–4 May 2018).

Documentation

A/CN.9/932 Report of Working Group VI (Security Interests) on the work of its thirty-second session (Vienna, 11–15 December 2017)

A/CN.9/938 Report of Working Group VI (Security Interests) on the work of its thirty-third session (New York, 30 April–4 May 2018)

Proposed scheduling of this agenda item

Substantive deliberations: Thursday, 28 June 2018, afternoon

Adoption of the report on this agenda item: Friday, 29 June 2018, afternoon

10. Work programme of the Commission

25. At its forty-sixth session, in 2013, the Commission agreed that it should reserve time for discussion of future work as a separate topic at each Commission session.[21] Under this agenda item, the Commission will have before it a note by the Secretariat outlining the current work programme of the Commission and issues for possible

[17] United Nations publication, Sales No. E.17.V.1, available at http://www.uncitral.org/pdf/english/texts/security/ML_ST_E_ebook.pdf.

[18] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17* (A/72/17), para. 227.

[19] Ibid., paras. 222 and 223.

[20] Ibid., para. 227.

[21] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), para. 310.

future work, including in the area of international commercial dispute settlement and on topics of assets tracing, contractual networks and judicial sale of ships.

Documentation

A/CN.9/944	Possible future work on cross-border issues related to the judicial sale of ships
A/CN.9/952	Note by the Secretariat on work programme
A/CN.9/954	Possible future work on contractual networks

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 29 June 2018, morning, and Wednesday, 11 July, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

11. Date and place of future meetings

Fifty-second session of the Commission

26. The fifty-second session of the Commission will be held in Vienna. Tentative arrangements have been made for the session to be held from 8 to 26 July 2019.

Sessions of working groups

27. At its thirty-sixth session, in 2003, the Commission agreed that: (a) working groups should normally meet for a one-week session twice a year; (b) extra time, if required, could be allocated from the unused entitlement of another working group provided that such arrangement would not result in the increase of the total number of 12 weeks of conference services per year currently allotted to sessions of all six working groups of the Commission; and (c) if any request by a working group for extra time would result in the increase of the 12-week allotment, it should be reviewed by the Commission, with proper justification being given by that working group regarding the reasons for which a change in the meeting pattern was needed.[22]

28. At its fiftieth session, in 2017, the Commission took note of General Assembly resolutions on the pattern of conferences promulgating policies as regards significant holidays, on which the United Nations Headquarters and the Vienna International Centre remained open but United Nations bodies were invited to avoid holding meetings. The Commission agreed to take into account those policies as far as possible when considering the dates of its future meetings.[23] It noted at that time that dates tentatively scheduled for the second half of 2018 included Gurpurab (23 November 2018). The Commission requested the Secretariat to explore whether an alternative week in the second half of 2018 could be found for a session of Working Group IV (Electronic Commerce) in Vienna that would not include a significant holiday, and decided to consider the matter further at its next session.[24] No alternative dates for the second half of 2018 were found. Other dates proposed below do not include significant holidays.

Sessions of working groups between the fifty-first and fifty-second sessions of the Commission

Working Group I (MSMEs)

29. The thirty-first session of the Working Group could be held in Vienna, from 8 to 12 October 2018, and the thirty-second session could be held in New York, from 25 to 29 March 2019.

[22] Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), para. 275.
[23] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 485.
[24] Ibid., para. 490.

Working Group II (Dispute Settlement)

30. The sixty-ninth session of the Working Group could be held in Vienna, from 10 to 14 September 2018, and the seventieth session could be held in New York, from 4 to 8 February 2019.

Working Group III (ISDS Reform)

31. The thirty-sixth session of the Working Group could be held in Vienna, from 29 October to 2 November 2018, and the thirty-seventh session could be held in New York, from 11 to 15 February 2019.

Working Group IV (Electronic Commerce)

32. The fifty-seventh session of the Working Group could be held in Vienna, from 19 to 23 November 2018,[25] and the fifty-eighth session could be held in New York, from 8 to 12 April 2019.

Working Group V (Insolvency Law)

33. The fifty-fourth session of the Working Group could be held in Vienna, from 10 to 14 December 2018, and the fifty-fifth session could be held in New York, from 1 to 5 April 2019.

Working Group VI (Security Interests)

34. The thirty-fourth session of the Working Group could be held in Vienna, from 26 to 30 November 2018, and thirty-fifth session could be held in New York, from 13 to 17 May 2019.

Sessions of working groups in 2019 after the fifty-second session of the Commission

Working Group I (MSMEs)

35. Tentative arrangements have been made for the thirty-third session of the Working Group to be held in Vienna, from 30 September to 4 October 2019.

Working Group II (Dispute Settlement)

36. Tentative arrangements have been made for the seventy-first session of the Working Group to be held in Vienna, from 23 to 27 September 2019.

Working Group III (ISDS Reform)

37. Tentative arrangements have been made for the thirty-eighth session of the Working Group to be held in Vienna, from 14 to 18 October 2019.

Working Group IV (Electronic Commerce)

38. Tentative arrangements have been made for the fifty-ninth session of the Working Group to be held in Vienna, from 25 to 29 November 2019.

Working Group V (Insolvency Law)

39. Tentative arrangements have been made for the fifty-sixth session of the Working Group to be held in Vienna, from 2 to 6 December 2019.

Working Group VI (Security Interests)

40. Tentative arrangements have been made for the thirty-sixth session of the Working Group to be held in Vienna, from 18 to 22 November 2019.

No advance documentation is expected

[25] 23 November 2018 is Gurpurab.

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 29 June 2018, morning, and Wednesday, 11 July, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

12. Consideration of issues in the area of insolvency law

(a) Finalization and adoption of a model law on cross-border recognition and enforcement of insolvency-related judgements and its guide to enactment

41. At its forty-seventh session, in 2014, the Commission approved a mandate for Working Group V to develop a model law or model legislative provisions providing for the recognition and enforcement of insolvency-related judgments.[26] The Working Group discussed the text of the draft model law at its forty-sixth (Vienna, 15–19 December 2014) to fifty-third sessions (New York, 7–11 May 2018).[27] A draft guide to enactment of the model law was discussed by the Working Group at its fifty-second and fifty-third sessions.

42. Following the fifty-second session of the Working Group (Vienna, 18–22 December 2017), the draft model law on cross-border recognition and enforcement of insolvency-related judgments was circulated to Governments and relevant international organizations for comment. Any comments that the Secretariat may receive on the draft model law that would raise issues requiring further discussion of the draft text by the Working Group are expected to be considered at its fifty-third session.

43. At its fifty-first session, the Commission is expected to consider the draft model law together with its guide to enactment for adoption.

(b) Progress report of Working Group V

44. Having completed its work on the draft model law on cross-border recognition and enforcement of insolvency-related judgments, Working Group V is continuing its deliberations on the following topics:

(a) Facilitating the cross-border insolvency of enterprise groups, pursuant to a mandate given by the Commission at its forty-third session, in 2010;[28]

(b) Obligations of directors of enterprise group companies in the period approaching insolvency, pursuant to a mandate given by the Commission at its forty-third session, in 2010;[29] and

(c) The insolvency treatment of MSMEs pursuant to a mandate given by the Commission at its forty-seventh session, in 2014,[30] and clarified at its forty-ninth session, in 2016.[31]

Documentation

A/CN.9/931	Report of Working Group V (Insolvency Law) on the work of its fifty-second session (Vienna, 18–22 December 2017)

[26] *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 155.

[27] For the reports of the Working Group on the work of those sessions, see documents A/CN.9/828, A/CN.9/835, A/CN.9/864, A/CN.9/870, A/CN.9/898, A/CN.9/903, A/CN.9/931 and A/CN.9/937.

[28] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 259.

[29] Ibid., para. 259.

[30] Ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 156.

[31] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), para. 246.

A/CN.9/937	Report of Working Group V (Insolvency Law) on the work of its fifty-third session (New York, 7–11 May 2018) (text of a draft model law as approved by the Working Group will be included in an annex to the report)
A/CN.9/WG.V/WP.157	Draft guide to enactment
A/CN.9/...	Any comments by States and international organizations that the Secretariat may receive on a draft model law on cross-border recognition and enforcement of insolvency-related judgements

Proposed scheduling of this agenda item

Substantive deliberations: Monday–Tuesday, 2–3 July 2018

Adoption of the report on this agenda item: Tuesday, 3 July 2018, afternoon

13. Coordination and cooperation

45. The Commission will be informed by the Secretariat about activities undertaken by the Secretariat since the Commission's previous session to ensure coordination with the work of other organizations active in the field of international trade law. In particular, the Commission will hear an oral report on the preparation, in cooperation with the Hague Conference on Private International Law and the International Institute for the Unification of Private Law (Unidroit), of a guidance document in the area of international commercial contracts (with a focus on sales).

46. Representatives of international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening cooperation with UNCITRAL.

47. The Commission may wish to recall that from its forty-fourth session to fiftieth sessions, in 2011 to 2017, it heard oral reports by the Secretariat about intergovernmental and non-governmental organizations invited to sessions of UNCITRAL.[32] At its forty-eighth session, in 2015, the Commission requested the Secretariat, when presenting its oral report on the topic of organizations invited to sessions of UNCITRAL, to provide comments on the manner in which invited organizations fulfilled the criteria applied by the Secretariat in making its decision to invite non-governmental organizations.[33] At its forty-ninth session, in 2016, the Commission welcomed the detailed and informative report presented by the Secretariat pursuant to that request.[34] At its fiftieth session, in 2017, the Commission requested the Secretariat to provide information about intergovernmental and non-governmental organizations invited to sessions of UNCITRAL in writing for future sessions.[35]

Documentation

A/CN.9/948	Note by the Secretariat on coordination and cooperation
A/CN.9/951	Note by the Secretariat on intergovernmental and non-governmental organizations invited to sessions of UNCITRAL

[32] Ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), paras. 288–298; ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 174–178; ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), paras. 257–261; ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), paras. 205–207; ibid., *Seventieth Session, Supplement No. 17* (A/70/17), paras. 279–281; ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 286–290; and ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), paras. 360–364.

[33] Ibid., *Seventieth Session, Supplement No. 17* (A/70/17), para. 280.

[34] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), para. 290.

[35] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 364.

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

14. Technical assistance to law reform

(a) General

48. The Secretariat will submit a note informing the Commission about the technical assistance activities undertaken by the Secretariat, including the UNCITRAL Regional Centre for Asia and the Pacific, since the Commission's previous session. The note will also address the technical assistance resources, including the UNCITRAL website, and additional information and technical assistance tools being developed by the Secretariat.

49. The Secretariat is planning to organize a panel discussion with participation of main partner organizations in UNCITRAL technical cooperation and assistance activities. That panel would aim at informing the Commission about lessons learned, best practices and problems encountered in the implementation of the UNCITRAL technical assistance and cooperation program. It would allow the Commission to explore ways of enhancing the program, including by integrating it better into activities conducted on the ground by the United Nations, pursuant to the Guidance Note endorsed by the Commission at its forty-ninth session, in 2016.[36]

(b) UNCITRAL regional presence

50. Pursuant to the requests of the Commission,[37] the Secretariat will keep the Commission informed of developments regarding the establishment of UNCITRAL regional centres, in particular their funding and budgetary situation.

Documentation

A/CN.9/947 Note by the Secretariat on technical cooperation and assistance

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018

15. Status and promotion of UNCITRAL legal texts

51. The Commission will be informed about the status of the conventions and model laws resulting from UNCITRAL's work as well as the status of the New York Convention. It will also have before it a bibliography of recent writings related to UNCITRAL's work.

52. An oral report will be presented on international moot competitions sponsored by UNCITRAL.

53. The Commission will also hear an oral report by the Secretariat on the functioning of the transparency repository. In that context, the Commission may wish to recall that, at its forty-sixth session, in 2013, it expressed its strong and unanimous opinion that the UNCITRAL secretariat should fulfil the role of the transparency repository established under article 8 of the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration.[38] [39] At its forty-ninth and fiftieth sessions, in 2016 and 2017, respectively the Commission reiterated that view, agreed to recommend to the General Assembly that it request the secretariat of the Commission

[36] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), para. 262 and annex II.
[37] Most recently, ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), paras. 293 and 296.
[38] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), para. 128 and annex I.
[39] Ibid., para. 80.

to continue operating the transparency repository, as a pilot project, to be funded entirely by voluntary contributions, and requested that the Commission and the General Assembly be informed of developments regarding the funding and budgetary situation of the transparency repository based on its pilot operation.[40]

Documentation

A/CN.9/949 Bibliography of recent writings related to UNCITRAL's work

A/CN.9/950 Note by the Secretariat on status of conventions and model laws

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, afternoon

Adoption of the report on this agenda item: Wednesday, 11 July 2018

16. Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts: CLOUT and digests

54. The Commission will be informed by the Secretariat about the progress of work on a system for collecting and disseminating information on court decisions and arbitral awards relating to UNCITRAL texts, known as the "Case Law on UNCITRAL texts (CLOUT)", and on digests.

55. The Commission may wish to recall that, at its twenty-first session, in 1988, it decided to establish CLOUT for general informational use by judges, arbitrators, lawyers and parties to business transactions with the intention to further the desired uniformity of UNCITRAL legal texts.[41] The Commission may also wish to recall that in subsequent years, in light of the large number of cases collected in CLOUT on some UNCITRAL legal texts, the Commission requested a tool specifically designed to present information on the interpretation of those texts in a clear, concise and objective manner. At its thirty-fourth session, in 2001, the Commission requested the Secretariat to prepare a digest of case law on the United Nations Convention on Contracts for the International Sale of Goods[42] (Vienna, 1980).[43] At its thirty-fifth session, in 2002, the Commission requested the Secretariat to prepare a similar digest of case law on the UNCITRAL Model Law on International Commercial Arbitration.[44] At its forty-fifth session, in 2012, the Commission agreed that a digest on the UNCITRAL Model Law on Cross-Border Insolvency should be prepared.[45] Since then, the 2004, 2008, 2012 and 2016 editions of the *UNCITRAL Digest of Case Law on the United Nations Convention on Contracts for the International Sale of Goods* and the *UNCITRAL 2012 Digest of Case Law on the Model Law on International Commercial Arbitration* have been published.[46]

56. The General Assembly has repeatedly expressed support for the work on CLOUT and on digests.[47]

Documentation

A/CN.9/946 Note by the Secretariat on CLOUT and digests

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[40] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), para. 173, and ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 321.

[41] Ibid., *Forty-third Session, Supplement No. 17* (A/43/17), paras. 98–109.

[42] United Nations, *Treaty Series*, vol. 1489, No. 25567, p. 3.

[43] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), paras. 386–395.

[44] Ibid., *Fifty-seventh Session, Supplement No. 17* (A/57/17), para. 243.

[45] Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), para. 156.

[46] The current editions of the digests are available at http://www.uncitral.org/uncitral/en/case_law/digests.html.

[47] Most recently, resolution 72/113, paras. 27 and 28.

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, afternoon

Adoption of the report on this agenda item: Wednesday, 11 July 2018

17. Role of UNCITRAL in promoting the rule of law at the national and international levels

57. The item has been on the agenda of the Commission since its forty-first session, in 2008,[48] in response to the General Assembly's invitation to the Commission to comment, in its report to the General Assembly, on the Commission's current role in promoting the rule of law.[49] At its forty-first to fiftieth sessions, in 2008 to 2017, respectively, the Commission, in its annual reports to the General Assembly, transmitted comments on its role in promoting the rule of law at the national and international levels, including in the post-conflict reconstruction context. It expressed its conviction that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group supported by the Rule of Law Unit in the Executive Office of the United Nations Secretary-General.[50] This view was endorsed by the General Assembly.[51]

58. The Commission considered it essential to keep a regular dialogue with the Rule of Law Coordination and Resource Group through the Rule of Law Unit and to keep abreast of progress made in the integration of the work of UNCITRAL into the United Nations joint rule of law activities. To that end, it requested the Secretariat to organize briefings by the Rule of Law Unit biannually, when sessions of the Commission were held in New York.[52] The briefings consequently took place at the Commission's forty-fifth, forty-seventh and forty-ninth session, in 2012, 2014 and 2016,[53] respectively, and the next rule of law briefing is scheduled to take place at the Commission's fifty-first session, in 2018.

59. At its fifty-first session, in 2018, the Commission may also wish to take note of General Assembly resolution 72/119 on the rule of law at the national and international levels. By paragraph 25 of that resolution, the General Assembly invited the Commission to continue to comment, in its reports to the General Assembly, on its current role in promoting the rule of law. It has been the practice in the Commission to focus comments on its current role in promoting the rule of law on a subtopic identified by the General Assembly for its deliberations under the rule of law agenda

[48] For the decision of the Commission to include the item on its agenda, see *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17* (A/62/17), part two, paras. 111–113.

[49] General Assembly resolutions 62/70, para. 3, 63/128, para. 7, 64/116, para. 9, 65/32, para. 10, 66/102, para. 12, 67/97, para. 14, 68/116, para. 14, 69/123, para. 17, 70/118, para. 20, and 71/148, para. 22.

[50] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 17* and corrigendum (A/63/17 and Corr.1), para. 386; ibid., *Sixty-fourth Session, Supplement No. 17* (A/64/17), paras. 413–419; ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17), paras. 313–336; ibid., *Sixty-sixth Session, Supplement No. 17* (A/66/17), paras. 299–321; ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 195–227; ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), paras. 267–291; ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), paras. 215–240; ibid., *Seventieth Session, Supplement No. 17* (A/70/17), paras. 318–324; ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 317–342; and ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), paras. 435–441.

[51] General Assembly resolutions 63/120, para. 11, 64/111, para. 14, 65/21 paras. 12 to 14, 66/94, paras. 15 to 17, 67/89, paras. 16 to 18, 68/106, paras. 12 to 14, 69/115, para. 12, 70/115, para. 11, 71/135, para. 13, and 72/113, para. 18.

[52] *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 335.

[53] Ibid., *Sixty-seventh Session, Supplement No. 17* (A/67/17), paras. 199–210; ibid., *Sixty-ninth Session, Supplement No. 17* (A/69/17), paras. 229–233; and ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 313–317.

item at its subsequent session. In formulating its comments to the General Assembly under this agenda item, the Commission was assisted in the past by views of experts invited by the Secretariat to rule of law panel discussion. At its fiftieth session, in 2017, the Commission requested the Secretariat to consider informing the Commission in writing about relevant developments related to topics on which the Commission would be expected to provide comments to the General Assembly under this agenda item at future sessions.[54]

60. The General Assembly did not identify any specific subtopic for discussion at its next session, in 2018, in its resolution 72/119. It invited Member States and the Secretary-General to suggest possible subtopics for future Sixth Committee debates, for inclusion in the forthcoming annual report, with a view to assisting the Sixth Committee in choosing future subtopics (resolution 72/119, para. 29). No rule of law panel discussion or written note by the Secretariat is therefore to be expected at the fifty-first session of the Commission. In its comments to the General Assembly this year, the Commission may wish to highlight the role for the promotion of the rule of law of texts expected to be adopted or approved at the session and of the New York Convention, sixtieth anniversary of which will be commemorated during the session.

Documentation

A/RES/72/119	Resolution of the General Assembly on the rule of law at the national and international levels

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, afternoon

Adoption of the report on this agenda item: Wednesday, 11 July 2018

18. Relevant General Assembly resolutions

61. The Commission may wish to take note of General Assembly resolutions 72/113 on the report of UNCITRAL on the work of its fiftieth session and 72/114 on the UNCITRAL Model Law on Electronic Transferable Records, both of 7 December 2017, adopted on the recommendation of the Sixth Committee.[55] At its fiftieth session, in 2017, the Commission requested the Secretariat to replace an oral report by the Secretariat to the Commission under this agenda item with a written report to be issued before the session.[56] Pursuant to that request, the Secretariat submits a note summarizing the content of both resolutions.

Documentation

A/RES/72/113	Resolution of the General Assembly on the report of UNCITRAL on the work of its fiftieth session
A/RES/72/114	Resolution of the General Assembly on the UNCITRAL Model Law on Electronic Transferable Records
A/CN.9/953	Note by the Secretariat summarizing resolutions 72/113 and 72/114

Proposed scheduling of this agenda item

Substantive deliberations: Friday, 6 July 2018, afternoon

Adoption of the report on this agenda item: Wednesday, 11 July 2018

[54] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 423.

[55] For the relevant report of the Sixth Committee, see document A/72/458.

[56] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17* (A/72/17), para. 480.

19. Consideration of revised UNCITRAL texts in the area of privately financed infrastructure projects

62. At its fiftieth session, the Commission reaffirmed the mandate given to its secretariat to update, as necessary, the *UNCITRAL* Legislative *Guide on Privately Financed Infrastructure Projects* (2000),[57] involving experts. It also recalled that it had requested the Secretariat to consolidate the provisions of the *Legislative Guide* with the Model Legislative Provisions on Privately Financed Infrastructure Projects (2003).[58,59] The Commission requested the Secretariat to report to the Commission, with draft texts as appropriate, at its fifty-first session, in 2018.[60]

Documentation

A/CN.9/939 and addenda	Note by the Secretariat on public-private partnerships (PPPs): proposed updates to the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects

Proposed scheduling of this agenda item

Substantive deliberations: Monday–Tuesday, 9–10 July 2018

Adoption of the report on this agenda item: Wednesday, 11 July 2018, afternoon

20. Other business

(a) Evaluation of the role of the UNCITRAL secretariat in facilitating the work of the Commission

63. The Commission will hear an oral report by the Secretariat on the results of evaluation by UNCITRAL of the role of its secretariat in facilitating the work of the Commission since the start of the Commission's fiftieth session on 3 July 2017.

(b) Internship programme

64. An oral report will be presented on the internship programme in the Commission's secretariat.

No advance documentation is expected.

Proposed scheduling of this agenda item

Substantive deliberations: Wednesday, 11 July 2018, morning

Adoption of the report on this agenda item: Wednesday, 11 July 2018, afternoon

21. Adoption of the report of the Commission

65. The General Assembly, in its resolution 2205 (XXI) of 17 December 1966, decided that the Commission should submit an annual report to it and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Pursuant to a decision of the Sixth Committee,[61] the report of the Commission is introduced to the General Assembly by the chairperson of the Commission or by another officer designated by the chairperson.

No advance documentation is expected.

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[57] United Nations publication, Sales No. E.01.V.4. Available at http://www.uncitral.org/uncitral/uncitral_texts/procurement_infrastructure.html.

[58] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 17* (A/58/17), annex I. Available at http://http.uncitral.org/uncitral/uncitral_texts/procurement_infrastructure.html.

[59] Ibid., paras. 18–21.

[60] Ibid., *Seventy-second Session, Supplement No. 17* (A/72/17), para. 274.

[61] Ibid., *Twenty-third Session, annexes*, agenda item 88, document A/7408, para. 3.

Proposed scheduling of this agenda item

Friday, 29 June, afternoon; Tuesday, 3 July, afternoon; and Wednesday, 11 July

III. Scheduling of meetings and documentation

66. Meetings will be held from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., except on Monday, 25 June, when the morning meeting will commence at 10:30 a.m. (see para. 1 above). No meetings will be held on Wednesday, 4 July 2018, which is a United Nations official holiday in New York. No meetings may need to be held on Thursday, 5 July 2018, and Thursday and Friday, 12 and 13 July 2018.

67. The recommendations on the scheduling of meetings under each agenda item above, compiled for ease of reference below, are intended to assist States and invited organizations in planning the attendance of their pertinent representatives; the actual scheduling will be determined by the Commission itself.

Date	*Agenda item*
Monday, 25 June 2018	1. Opening of the session
	2. Election of officers
	3. Adoption of the agenda
	4. Finalization and adoption of instruments on international commercial settlement agreements resulting from mediation
Tuesday–Wednesday, 26–27 June 2018	5. Consideration of issues in the area of micro, small- and medium-sized enterprises
Thursday, 28 June 2018, morning	6. Commemoration of the sixtieth anniversary of the New York Convention
Thursday, 28 June 2018, afternoon	7. Investor-State dispute settlement reform: progress report of Working Group III
	8. Electronic commerce: progress report of Working Group IV
	9. Security interests: progress report of Working Group VI
Friday, 29 June 2018, morning	10. Work programme (see para. 25 on the issues suggested to be discussed on that day under this agenda item)
	11. Date and place of future meetings
Friday, 29 June 2018, afternoon	21. Adoption of the report of the Commission (agenda items 4 to 9)
Monday–Tuesday, 2–3 July 2018	12. Consideration of issues in the area of insolvency law
Tuesday, 3 July 2018, afternoon	21. Adoption of the report of the Commission (agenda item 12)
Wednesday, 4 July, is a United Nations official holiday in New York. No meetings will be held.	
Thursday, 5 July	*Reserved*
Friday, 6 July	13. Coordination and cooperation
	14. Technical assistance to law reform

Date	*Agenda item*
	15. Status and promotion of UNCITRAL legal texts
	16. Promotion of ways and means of ensuring a uniform interpretation and application of UNCITRAL legal texts: CLOUT and digests
	17. Role of UNCITRAL in promoting the rule of law at the national and international levels
	18. Relevant General Assembly resolutions
Monday–Tuesday, 9–10 July	19. Consideration of revised UNCITRAL texts in the area of privately financed infrastructure projects
Wednesday, 11 July	10. Work programme *(continued to reflect conclusions on agenda items 12 to 19)*
	11. Date and place of future meetings *(continued to reflect conclusions on agenda items 12 and 19)*
	20. Other business
	21. Adoption of the report of the Commission (agenda items 1–3, 10–11 and 13–20)
Thursday, 12 July	*Reserved*
Friday, 13 July	*Reserved*

68. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the documents for the fifty-first session by accessing the page of the fifty-first session of the Commission in the "Commission Documents" section of the UNCITRAL website (www.uncitral.org).